

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

DANIEL V. MARINO,  
*Plaintiff*

V.

USHER, *et al.*,  
*Defendants*

No.: 11-cv-06811

BEFORE THE HONORABLE  
PAUL S. DIAMOND

NOTICE OF APPEAL<sup>1</sup>

Plaintiff<sup>2</sup> Daniel V. Marino hereby appeals to the United States Court of Appeals for the Third Circuit the orders and memoranda (*Doc. No. 42, 48, 75, 82, 97, 126, 152, 153, 154, 155, 157*) of the District Court entered in this case. Without limiting his right to appeal any particular order rendered during District Court proceedings, Plaintiff specifically appeals the following orders:

- **May 21, 2014 Order (*Doc. No. 155*) and memorandum (*Doc. No. 154*) entering final judgment on all claims in favor of defendants Bobby Ross Avila, Jr., Issiah Avila, Jr., Bystorm Entertainment, Defenders of Music, EMI April Music, Inc., EMI Blackwood Music, Inc., Flyte Tyme Tunes, James Samuel Harris, III, Terry Steven Lewis, Mark Pitts, Sony Music Entertainment, Sublime Basement Tunes, UR-IV Music, INC., Usher Terry Raymond IV, Warner Tamerlane Corp., and IN2N Entertainment Group, Inc.;**

\*\*\*\*\*

- May 27, 2014 Order Denying Plaintiff's Motion for Clarification as to Whether Judgment is Final and Appealable (*Doc. No. 157*);
- May 21, 2014 Order (*Doc. No. 153*) and memorandum (*Doc. No. 152*) granting sanctions against Attorney Malofiy and opening the default against William Guice;
- November 19, 2013 Order to Show Cause (*Doc. No. 126*);
- July 31, 2013 Order Granting Defendants' Motion to Strike Portions of Plaintiff's Expert Michael Einhorn's Report (*Doc. No. 97*);
- June 12, 2013 Order that Plaintiff's Discovery Requests are Denied as Moot (*Doc. No. 82*);
- April 24, 2013 Order Granting Defendants' Partial Motion for Judgment on the Pleadings (*Doc. No. 75*);
- October 10, 2012 Order Dismissing Count V of the Amended Complaint (*Doc. No. 48*); and
- September 25, 2012 Order Dismissing Count IV of the Amended Complaint (*Doc. No. 42*).

<sup>1</sup> This Notice of Appeal, as it pertains to the sanctions orders, should be read and understood to include the appeals of both plaintiff Dan Marino and Attorney Malofiy.

<sup>2</sup> This Notice of Appeal, as it pertains to the sanctions orders, should be read and understood to include the appeals of both plaintiff Daniel Marino and Attorney Malofiy.

\*\*\*\*\*

*Respectfully submitted,*  
FRANCIS ALEXANDER, LLC

/s/ Francis Malofiy  
Francis Malofiy, Esquire  
Attorney ID No.: 208494  
280 N. Providence Road | Suite 105  
Media, PA 19063  
T: (215) 500-1000  
F: (215) 500-1005  
*Law Firm / Lawyer for Plaintiff*

/d/ June 20, 2014

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF APPEAL has been electronically filed with the Court via the ECF Filing System, served upon all counsel of record via electronic mail, and e-mailed to William Guice.

JONATHAN D. DAVIS, P.C.  
Jonathan D. Davis, Esquire  
Derek A. Williams  
99 Park Avenue | Suite 1600  
New York, NY 10016  
T: (212) 687-5464  
E: jdd@jddavispc.com  
E: DAW@jddavispc.com

FOX ROTHSCHILD, LLP  
Michael Eidel, Esquire  
Matthew Olesh, Esquire  
2000 Market Street, 20<sup>th</sup> Floor  
Philadelphia, PA 19103  
T: (215) 299-2000  
E: MEidel@foxrothschild.com

*Attorneys for Defendants*

*Usher Raymond IV a/k/a Usher ("Usher"), Sony Music Entertainment, EMI April Music, Inc., EMI Blackwood Music, Inc., Warner-Tamerlane Publishing Corp., UR-IV Music, Inc., Bystorm Entertainment, Mark Pitts, Issiah Avila, Jr., Bobby Ross Avila, Jr., Sublime Basement Tunes, Defenders of Music, Flyte Tyme Tunes, James Samuel Harris III, and Terry Steven Lewis*

MANATT, PHELPS & PHILLIPS, LLP  
Mark S. Lee, Esquire  
11355 West Olympic Boulevard  
Los Angeles, CA 90064-1614  
T: (310) 312-4000  
F: (310) 312-4224  
E: mlee@manatt.com

ROGERS & ASSOCIATES, LLC  
Lance Rogers, Esquire  
25 Elliot Avenue  
Bryn Mawr, PA 19010  
T: (610) 649-1880  
F: (877) 649-1800  
E: lance@rogerscounsel.com  
*Attorney for Defendant*  
*IN2N Entertainment Group, LLC ("IN2N")*

THOMAS VAN DELL  
10900 Wilshire Blvd., Suite 1400  
Los Angeles, CA 90024  
T: (310) 443-5332  
E: vandell@hudcan.com  
*Defendant, Pro Se*

WILLIAM C. GUICE  
16794 East Tufts Avenue  
Aurora, CO 80015  
*Defendant, Pro Se*  
E: guicemanmusic@gmail.com

SAMUEL C. STRETTON, ESQUIRE  
301 South High Street  
West Chester, PA 19381-3231  
E: s.stretton@verizon.net

\*\*\*\*\*

*Respectfully submitted,*  
FRANCIS ALEXANDER, LLC

/s/ Francis Malofiy  
Francis Malofiy, Esquire  
Attorney ID No.: 208494  
280 N. Providence Road | Suite 105  
Media, PA 19063  
T: (215) 500-1000  
F: (215) 500-1005  
*Law Firm / Lawyer for Plaintiff*

/d/ June 20, 2014